

Notice of Allowability

Application No.

10/082,623

Examiner

Frederick C. Nicolas

Applicant(s)

BRINCAT, KENNETH

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 9/14/2004.
2. ☒ The allowed claim(s) is/are 40,43-45 and 47-49.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 2/3/2003.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 10/27/2004.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/10/2004 has been entered.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with the applicant's attorney Mr. Michael Maddox on 10/27/2004.

The application has been amended as follows:

IN THE CLAIMS:

Claim 40, line 1, "adapted for selective" has been deleted and --for selectively-- has been inserted; line 2, "discharge" has been deleted and --discharging-- has been inserted; line 3, "first generally cylindrical portion adapted for" has been deleted and --cap-- has been inserted; line 3, after "the", --select-- has been inserted; line 4, after "container" second occurrence, --,-- has been inserted; line 5, "second portion adapted for coupling to said first portion" has been deleted and --lid coupled-- has been inserted;

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line 5, after "including", --an upper portion and a lower portion, the upper portion comprising-- has been inserted; line 7, "adapted for threaded engagement" has been deleted and --threadably engaged-- has been inserted; line 8, "first portion" has been deleted and --cap-- has been inserted; line 8, "adapted" has been deleted and --, allowing-- has been inserted; line 9, "pouring" has been deleted and --poured-- has been inserted; line 9, after "contents", --said threads of the upper portion run along the entire length of the upper portion, the lower portion comprising-- has been inserted; line 10, "lid" has been deleted; line 12, "lid" has been deleted; line 15, "third" first occurrence has been deleted and --body-- has been inserted; line 15, "adapted" has been deleted; line 15 "said" first occurrence has been deleted; line 15, "third" second occurrence has been deleted and --body-- has been inserted; line 18, "adapted" has been deleted; line 18, "second portion" has been deleted and --lid--has been inserted; line 19, "a" first occurrence has been deleted and --said-- has been inserted; line 19, "cylindrical side walls adapted" has been deleted and --a cylindrical side wall-- has been inserted; line 21, "adapted to hold" has been deleted and --for holding-- has been inserted; line 23, "second portion" has been deleted and --lid-- has been inserted; line 24, "third" first occurrence has been deleted and --body-- has been inserted; line 24, after "of", --said-- has been inserted; line 24, "third" second occurrence has been deleted and --body-- has been inserted; line 24, "said" second occurrence has been deleted and --a-- has been inserted; line 25, "thereof" has been deleted and --of said mouth portion-- has been inserted; line 25, after "discharge", --region-- has been inserted; line 25, "second

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portion" has been deleted and --lid-- has been inserted; line 27, "lid" has been deleted and --lower-- has been inserted.

Claim 43, line 2, "upper" first occurrence has been deleted and --lower-- has been inserted; line 2, "upper portion" second occurrence has been deleted and --lid-- has been inserted.

Claim 44, line 2, "lip" first occurrence has been deleted and --mouth portion-- has been inserted; line 2, "lip" second occurrence has been deleted and --mouth portion-- has been inserted.

Claim 45, lines 1-2, "upper portion" has been deleted and --cap-- has been inserted.

Claim 47, lines 1-2, "first portion comprises a cap" has been deleted and --cap allows-- has been inserted.

Claim 48, line 1, "lower" has been deleted.

Claim 49, line 1 "lower" has been deleted.

Claims 41 and 42 have been canceled.

3. This application is in condition for allowance except for the presence of claims 14 and 39 to an invention non-elected without traverse. Accordingly, claims 14 and 39 have been cancelled.

Allowable Subject Matter

4. Claims 40,43-45,47-49 are allowed.


Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hinze 5,884,816, Donoghue 4,077,547, Karpal 4,623,076 and Hiroshige 4,448,316 disclose other types of container.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (703)-305-6385. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y Mar, can be reached on 703-308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN
October 27, 2004

 10/27/04
Frederick C. Nicolas
Patent Examiner
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